

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 9256 of 1998

For Approval and Signature:

Hon'ble MISS JUSTICE R.M. DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

RANIBEN W/O. HARESHBHAI KARSANBHAI BHIL

Versus

STATE OF GUJARAT

Appearance:

MS SUBHADRA G PATEL for Petitioner

MR SS PATEL AGP for Respondent No. 1, 2, 3

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 13/08/1999

ORAL JUDGEMENT

Heard the learned advocates for the respective parties.

2. The petitioner challenges the order of preventive

detention dated 10th October, 1998 made by the Commissioner of Police, Ahmedabad City, under the powers conferred upon him under Sub-section 1 of Section 3 of the Gujarat Prevention of Anti-Social Activities Act, 1985 [hereinafter referred to as, 'the Act'].

3. The petitioner is alleged to be a 'bootlegger' and his activities are found to be prejudicial to the maintenance of public order within the meaning of Section 3 (4) of the Act. Eleven offences punishable under the Bombay Prohibition Act have been registered against the petitioner and were pending investigation on the date of the order. In each of the cases, substantial quantity of country liquor has been recovered from the possession of the petitioner. Besides, two individuals, on assurance of anonymity, have given statements in respect of the anti-social activities of the petitioner and its adverse effect on the peace and public tranquillity. They have particularly referred to the incidents of 12th September, 1998 and 17th September, 1998. In both the incidents, the petitioner is alleged to have manhandled the concerned witness and beaten him in a public place. The petitioner is also alleged to have issued threats to the witnesses and the people who had gathered on the spot. He is alleged to have used lethal weapon for terrorizing the witnesses and the innocent members of the public. The concerned incidents are alleged to have created a feeling of insecurity in the minds of the people.

4. It is submitted that the reports of the Chemical examination of the liquor allegedly recovered from the petitioner are vital documents and ought to have been considered by the detaining authority while recording his subjective satisfaction. The petitioner also ought to have been supplied copies of such reports. However, the same having not been done, the subjective satisfaction recorded by the detaining authority is vitiated. It is also contended that the representation made on 6th November, 1998 against the order of detention has not been expeditiously dealt with and thereby the petitioner's constitutional right has been infringed. Further, the detaining authority has relied upon the statements given by the witnesses without verifying the genuineness of the contentions thereof. It is submitted that last of the offences was registered against the petitioner on 5th October, 1998 and she was arrested on 9th October, 1998. The statements of witnesses were also recorded on 9th October, 1998 and were verified on 10th October, 1998. The proximity of these dates leaves no time for the sponsoring authority or the detaining

authority to verify the genuineness of the said statements.

6. The petition is contested by the learned AGP Mr. Patel. He has relied upon the affidavits made on behalf of the respondents and has submitted that the reports of the chemical examination were not available on the date of the detention, and therefore, were not relied upon. However, after receipt of the said reports, chargesheets have been submitted in the concerned Court and alongwith the chargesheet, the report of the chemical examination also have been furnished. Mrs. Patel, at this stage, has submitted that in the offence registered on 31st March, 1998, the report of the chemical examination was received long before the date of detention and ought to have been supplied to the petitioner alongwith the grounds of detention. The submission is not supported by the averments made in the petition, and therefore, is not considered. The detaining authority in his affidavit made on 4th May, 1999 has stated that considering the gravity of the offences committed by the petitioner and its widespread effect on the society, the order of detention was made immediately, after collecting the necessary material. He has also stated that he had carefully examined the statements made by the witnesses and the other relevant materials place before him and had satisfied himself in respect of the genuineness and correctness of the statements of the witnesses and the fear expressed by them. The Under Secretary to the Government has filed his affidavit and has stated that the representation dated 6th November, 1998 was received in the office of the Chief Minister on 9th November, 1998 and it was immediately forwarded to the concerned section of the Government. However, since the officer incharge was under transfer orders and the incumbent coming in his place took over the charge on 11th November, 1998, the formal order could not be made till 14th November, 1998. I am of the view that the State Government has thus satisfactorily explained the period spent for processing the representation made by the petitioner on 6th November, 1998. Therefore, it cannot be said that the representation was not promptly attended to. No other ground is urged before me.

7. Petition is dismissed. Rule is discharged.
